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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

0003 S0170031

January 14, 2009

CERTIFIED RETURN RECEIPT
7005 2570 0000 4801 7833

Ken Wedritch
Unico, Inc.
8880 Rio San Diego Dr. 8th FL
San Diego, CA 92108

Subject: Proposed Assessment for State Notices of Violation No's. NM2008-41-04 and NM2008-41-05, Unico, Inc., Bromide Basin Mine, S0170031, Garfield County, Utah

Dear Mr. Wedritch:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced Notices of Violation. These violations were issued by Division Inspector, Paul Baker, on July 2, 2008. Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the violations as follows:

- Violation #MN2008-41-04 - \$242.00
- Violation #MN2008-41-05 - \$770.00

Each worksheet specifically outlines how the violations were assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this (NOV / Cessation Order) has been considered in determining the facts surrounding the violation and the amount of this penalty.

Under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the violation, you should file a written request for an Informal Conference within thirty 30 days of receipt of this letter. This conference will be conducted by the Division Director or Associate Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.



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Ken Wedritch
Unico, Inc.
S0170031
January 14, 2009

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the violation will stand, the proposed penalties will become final, and the penalties will be due and payable within thirty (30) days of the date of this proposed assessment, by February 14, 2009. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Lynn Kunzler
Assessment Officer

Enclosure: assessment worksheets

cc: Vicki Bailey, Accounting
Vickie Southwick, Exec. Sec.

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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE Unico, Inc. PERMIT S/017/0031

NOV / CO # MN2008-41-05

ASSESSMENT OFFICER Lynn Kunzler

ASSESSMENT DATE January 14, 2009

ASSESSMENT SUMMARY (R647-7-103.3)

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>7</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>27</u>

TOTAL ASSESSED FINE \$ 770.00

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

A. Previous violations, which are not pending or vacated, within (3) years of today's date.

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt = NOV, 5pts = CO)
<u>None</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or ADMINISTRATIVE (B) type of violation? Event Violation
(assign points according to A or B below)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
Environmental damage/water pollution
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 17

PROVIDE AN EXPLANATION OF POINTS:

Inspector believes the event of polluted water entering the drainage has occurred, but is uncertain of any specific damage because of the event. Points assigned mid point of upper half of 'likely to have occurred' due to no positive proof of occurrence. Otherwise this would be assigned 20 points as if the event had occurred.

3. What is the extent of actual or potential damage? (RANGE 0-25)
In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 3

PROVIDE AN EXPLANATION OF POINTS:

Inspector indicated that only a small amount of oil (5-10 gal.) may have entered the drainage and that damage would be minimal from this amount of discharge. Points assigned at midpoint of lower 1/4 of range.

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? NA (RANGE 0-25)
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS NA

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 20

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation, which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, IF SO--NEGLIGENCE; or was the failure willful, or was economic gain realized by the permittee or failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

ASSIGN NEGLIGENCE POINTS 7

PROVIDE AN EXPLANATION OF POINTS:

While the operator had not been informed of the potential problem, the inspector states that a prudent operator should have been aware of the need to keep the site clean and potential contaminants isolated and secured. Points assigned at midpoint of 'Negligence' range..

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area? IF SO--EASY ABATEMENT
or
B. Did the permittee not have the resources at hand to achieve compliance, or was the submission of plans required prior to physical activity to achieve compliance? IF SO--DIFFICULT ABATEMENT

EASY OR DIFFICULT ABATEMENT? Easy abatement situation.

Easy Abatement Situation

X	Immediate Compliance (Immediately following the issuance of the NOV)	-11 to -20*
X	Rapid Compliance (Permittee used diligence to abate the violation)	-1 to -10*
X	Normal Compliance (Operator complied within the abatement period required)	0

Difficult Abatement Situation

X	Rapid Compliance (Permittee used diligence to abate the violation)	-11 to -20*
X	Normal Compliance (Operator complied within the abatement period required)	-1 to -10*
X	Extended Compliance (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)	0

*Assign upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

Abatement date was extended twice for this violation. Thus good faith points are not awarded due to the extended nature of achieving compliance.

WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE Unico, Inc. PERMIT S/017/0031

NOV / CO # MN2008-41-04

ASSESSMENT OFFICER Lynn Kunzler

ASSESSMENT DATE January 14, 2009

ASSESSMENT SUMMARY (R647-7-103.3)

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>3</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>11</u>

TOTAL ASSESSED FINE \$ 242.00

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

A. Previous violations, which are not pending or vacated, within (3) years of today's date.

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt = NOV, 5pts = CO)
<u>None</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or ADMINISTRATIVE (B) type of violation? Event Violation
(assign points according to A or B below)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent? Injury to the public
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 3

PROVIDE AN EXPLANATION OF POINTS:

Inspector indicated that because of the remoteness of the site, visits to the site by the general public is unlikely. Points assigned mid pit of lower 1/2 of range.

3. What is the extent of actual or potential damage? (RANGE 0-25)
In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

There was no reported damage or injury as a result of the portal not being secured.

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? NA (RANGE 0-25)
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS NA

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 3

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation, which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, IF SO--NEGLIGENCE; or was the failure willful, or was economic gain realized by the permittee or failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

Operator had been informed of the open portal needing to be secured during a previous inspection. No evidence that the operator had tried to secure the portal prior to this inspection. Points assigned at midpoint of 'Negligence' range.

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area? IF SO--EASY ABATEMENT
or
B. Did the permittee not have the resources at hand to achieve compliance, or was the submission of plans required prior to physical activity to achieve compliance? IF SO--DIFFICULT ABATEMENT

EASY OR DIFFICULT ABATEMENT? Difficult abatement situation.

Easy Abatement Situation

X	Immediate Compliance (Immediately following the issuance of the NOV)	-11 to -20*
X	Rapid Compliance (Permittee used diligence to abate the violation)	-1 to -10*
X	Normal Compliance (Operator complied within the abatement period required)	0

Difficult Abatement Situation

X	Rapid Compliance (Permittee used diligence to abate the violation)	-11 to -20*
X	Normal Compliance (Operator complied within the abatement period required)	-1 to -10*
X	Extended Compliance (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)	0

*Assign upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

Abatement date was extended twice for this violation. Thus good faith points are not awarded due to the extended nature of achieving compliance.